

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of San Diego Gas & Electric Company (U 902 G) and Southern California Gas Company (U 904 G) for Authority to Integrate Their Gas Transmission Rates, Establish Firm Access Rights, and Provide Off-System Gas Transportation Services.

Application 04-12-004  
(Filed December 2, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING  
REGARDING MOTION TO STRIKE TESTIMONY**

**Summary**

This ruling addresses the motion of San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) to strike certain portions of the testimony of R. Thomas Beach and Michael Alexander.<sup>1</sup> Today's ruling denies the motion to strike, but clarifies that the recommendation to eliminate the peaking rate in its entirety is an issue to be addressed in Phase 2 of this proceeding, and that the recommendation to eliminate the Sempra-wide electric generation (EG) rate will not be considered in this proceeding.

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<sup>1</sup> Beach is sponsoring testimony on behalf of Watson Cogeneration Company, the Indicated Producers, and the California Manufacturers and Technology Association, referred to herein as Watson et al. Alexander is sponsoring testimony on behalf of Southern California Edison Company (SCE).

## **Background**

SDG&E and SoCalGas filed their motion “To Strike Testimony and to Shorten Time in Which to Respond” on August 2, 2005. In an electronic message to the service list on August 3, 2005, the undersigned granted the request to shorten the time for filing a response to the motion to strike and set August 10, 2005 as the response date.

Joint responses to the motion to strike were filed by Watson et al., and by Duke Energy North America, LLC and Duke Energy Marketing America, LLC (Duke). A response to the motion was also filed by SCE.

## **Discussion**

SDG&E and SoCalGas seek to strike certain portions of the testimony of Beach and Alexander pertaining to whether SoCalGas’ peaking rate should be eliminated, and whether the “Sempra-wide” electric generation (EG) rate should be eliminated.

Watson et al. agree that the peaking rate is to be resolved in phase 2 of this proceeding. For that reason, Attachment A of their response contains proposed modifications to pages 4 and 22 of Beach’s testimony. Watson et al., however, contend that the remainder of Beach’s testimony is within the scope of this proceeding because the peaking rate is impacted by the proposal of SoCalGas and SDG&E to integrate their rates.

Regarding the Sempra-wide EG rate, Watson et al. contend that the EG rate is related to the issue of whether the gas transmission systems of SoCalGas and SDG&E should be integrated on an economic basis. SoCalGas’ own witness refers to the EG rate to support the extension of the integration policy to residential and industrial customers. Watson et al. also assert that “it would be discriminatory and unbalanced to examine integration for residential and

industrial customers without examining the impacts on EG customers.” (Watson et al. Response, p. 3.) Watson et al. further assert that including the EG rate in this proceeding will lead to “a broader, more informed record at a time when electric generation issues are critical,” which will maximize the Commission’s flexibility to craft an outcome in this phase of the proceeding. (Watson et al. Response, p. 4.)

SCE opposes the motion to strike. SCE points out that SDG&E and SoCalGas concede in their motion that the peaking rate affects the economic analysis of the system integration proposal. According to SCE, Alexander’s testimony provides background testimony on how the peaking rate would apply to SDG&E if it connects to LNG supplies at Otay Mesa. SCE proposes to revise a phrase that appears in line 4 of page 4 of Alexander’s testimony so that it is clear that SCE is not seeking to eliminate the peaking rate.

With respect to the Sempra-wide EG rate, SCE contends that this issue is within the scope of this proceeding, and that the SDG&E/SoCalGas testimony mentions the Biennial Cost Allocation Proceeding (BCAP) decision which adopted the Sempra-wide EG rate (Decision [D.] 00-04-060) and the implications of that decision. SCE also points out that the other parties’ testimony also refer to the EG rate, but SDG&E and SoCalGas have not moved to strike those references. SCE also notes that under the system integration proposal, EG rates will decrease from 3.51 cents/therm to 3.29 cents/therm. SCE asserts that since “the Sempra-wide EG rate is made up of several components, one cannot integrate or de-integrate one component without affecting the existing gas transmission rate.” (SCE Response, p. 5.)

Duke supports the motion to strike. Although Duke states that it is opposed to the peaking rate, the May 24, 2005 scoping memo and ruling stated

that the issue of whether or not the peaking rate should be eliminated would be addressed in Phase II of this proceeding. As for the Sempra-wide EG rate, Duke contends that if this issue is to be considered again, that it should occur in the SDG&E/SoCalGas BCAPs. In the alternative, the parties should petition to modify D.00-04-060.

Duke also contends that much of SCE's testimony on the Sempra-wide EG rate repeats arguments that were made in the 1999 BCAP which led to the issuance of D.00-04-060, and that these arguments were already considered and rejected by a majority of the Commissioners in that decision.

If the system integration proposal of SDG&E and SoCalGas is adopted, one of the effects is that it would eliminate the applicability of SoCalGas' peaking rate to SDG&E if it obtains gas at Otay Mesa. For that reason, the testimony of Beach and Alexander regarding SoCalGas' peaking rate is relevant to the issue of whether the system integration proposal should be adopted or not. However, the issue of whether SoCalGas' peaking rate should be eliminated in its entirety will not be decided until Phase 2 of this proceeding. Thus, the motion to strike those portions of the testimony of Beach and Alexander which refer to the peaking rate is denied.

The Sempra-wide EG rate was litigated and adopted in a BCAP proceeding. The testimony of Beach and Alexander regarding the Sempra-wide EG rate is relevant to this phase of the proceeding because it provides an example of how the Commission has integrated the rate for both SoCalGas and SDG&E in the past. However, this proceeding is not the proper proceeding in which to litigate whether the Sempra-wide EG rate should be eliminated. That exercise should be raised in the next BCAP proceedings of SDG&E and SoCalGas, or it should be raised in a petition to modify D.00-04-060.

Accordingly, the motion to strike those portions of the testimony of Beach and Alexander regarding the Sempra-wide EG rate is denied.

Therefore, **IT IS RULED** that:

1. The August 2, 2005 motion of San Diego Gas & Electric Company and Southern California Gas Company to strike certain portions of the testimony of R. Thomas Beach and Michael Alexander is denied.
2. The issue of whether the peaking rate should be eliminated in its entirety is to be decided in Phase 2 of this proceeding.
3. The issue of whether the Sempra-wide electric generation rate should be eliminated will not be considered in this proceeding.

Dated August 12, 2005, at San Francisco, California.

/s/ JOHN S. WONG  
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John S. Wong  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Motion to Strike Testimony on all parties of record in this proceeding or their attorneys of record.

Dated August 12, 2005, at San Francisco, California.

/s/ TERESITA C. GALLARDO  
Teresita C. Gallardo

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.